

*Reflections on a*

CHANGING

*Graduation should be mostly*

*a time for looking ahead.*

*But when you invite a retiring*

*teacher to speak, you assume the*

*risk of some nostalgic*

*reflections.*



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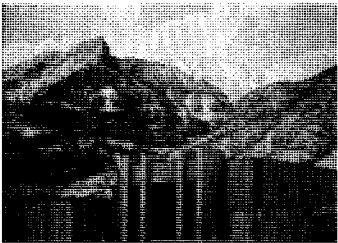
INETEEN YEARS AGO THIS SPRING

Carl S. Hawkins

I was pondering a difficult decision whether or not to leave Michigan. Two considerations finally persuaded me to accept an invitation to join the faculty of the newly

created J. Reuben Clark Law School. The first was the assurance that planning and leadership for the new Law School had been entrusted to Dallin Oaks and Rex Lee, who knew what a good law school

should be. The second was the realization that this would be a rare opportunity to contribute to the character of an institution that would last beyond my lifetime.





My family and I were happy in Ann Arbor, and we had no desire to leave there, either for personal or professional reasons. But the University of Michigan Law School was a great institution before I came there and would continue to be so if I left. At BYU there would be an opportunity that might come only once in a lifetime, to help establish a new institution.

It is satisfying now to reflect upon what has been accomplished here. I need not dwell upon the more obvious and tangible achievements in recruiting a competent faculty, attracting qualified students, establishing the library, dedicating the new building, qualifying for accreditation by the American Bar Association and for membership in the Association of American Law Schools and the Order of the Coif, and graduating nearly 2,500 students, most of whom have passed the bar and are serving competently in a wide variety of professional positions, as well as giving valuable service to their communities and their church. It is equally satisfying to reflect on the faculty's scholarly production and their service to the university, the public, and the Church.

**B**ut today I would like to speak of some accomplishments that are less tangible and less likely to be noticed or remembered.

First, it has been a noteworthy accomplishment that the educational objectives of the Law School have been established within the mainstream of American legal education, so as to enjoy academic and professional credibility. On the face of it, that may not sound like much to boast about—that the Law School should have been established as a sound educational institution. But those who are old enough to remember some of the things that were said after plans for the Law School were announced will understand that there was some risk that this institution could have been started in a different direction.

Some people made public statements proclaiming that the mission of this new Law School should be to inculcate particular political values or ideology. I shall avoid labeling or characterizing that political ideology, not only because such labels involve a high risk of being misunderstood, but also because the label is not necessary for my point, which is to celebrate the fact that the Law School successfully resisted the imposition of any political agenda.

Those statements proclaiming a political agenda for the Law School were not made by members of the Board of Trustees or by any officials who had the responsibility to define policy or purpose for the Law School. But they were made by well-meaning persons who hoped to influence the course of the Law School in the direction of political values that they sincerely believed were responsive to important religious principles.

If they had succeeded, the consequences would have been tragic, because they would have been self-defeating. A law school pursuing a political agenda would never have gained professional or academic credibility. But even worse, its graduates could not have acquired the knowledge and professional skill to become effective advocates in the service of any

cause. Hugh Nibley has reminded us of Joseph Smith's teaching about the danger of zeal without knowledge. Nibley explained it this way:

*The young, with their limited knowledge, are particularly susceptible to excessive zeal. Why do it the hard way, they ask at BYU, when God has given us the answer book? The answer to that is, because if you use the answer book for your Latin or your math, or [the law] . . . you will always have a false sense of power and never learn the real thing.* [Hugh W. Nibley, *Nibley on the Timely and the Timeless*, (Salt Lake City: Bookcraft, 1978), p. 268]

In this instance, the risk of misdirection was avoided when the Law School was entrusted to the hands of competent professionals, especially Dallin Oaks and Rex Lee, whose religious and political values could not be impugned, but who were firmly committed to the need for sound legal education to produce competent lawyers rather than political zealots. Those of us who provided some moral support in resisting the political pressures and some technical support in building a solid curriculum may now understandably look back with some satisfaction on what has been accomplished.

And you graduates should also be glad that your law school credentials were credible enough to open the door to the professional opportunities you now have, and that your legal education was sound enough to give you a fair chance to succeed.

A different kind of conflict, between the competing objectives of the scholar and the practicing lawyer, also had to be confronted in establishing the Law School's educational agenda. There were those whose distrust of academicians led them to urge that the Law School's agenda, and therefore its faculty, should be dominated by practicing lawyers.

The competing objectives of the profession and the academy have always been with us in American legal education. The problem is not resolved by some simplistic notion of "balance," because that suggests a kind of static compromise. The experience of good American law schools has shown that a dynamic tension is needed, in which the curriculum is continually reexamined and regenerated in response to the competing demands of theory and practice.

The J. Reuben Clark Law School started under that kind of dynamic tension with the appointment of a faculty whose experience reflected the best of both competing objectives. There were lawyers' lawyers, like Rex Lee, Woody Deem, and Terry Crapo, who still had the academic credentials to assure their appreciation for scholarly values. And there were established law teachers and scholars, like Ed Kimball, Doug Parker, and Carl Hawkins, whose experience confirmed their respect for the realities of legal practice.

While there is cause for satisfaction in these things, there is surely no cause for complacency.

It is well that a political agenda was avoided. But we must still recognize that the traditional law school curriculum reflects an implicit bias in favor of the established social and economic orders. We need not apologize for that, but we must make sure that it does not leave our students insensitive to social or economic injustice, and that it does not deprive

them of the passion and the creative energy needed to become effective advocates for remedial change

One way in which we do this is to continue striving for greater diversity in our faculty and student body. You should know that our conscientious efforts in this regard have not been driven by political pressure nor by faddish notions about the need to empower disadvantaged groups. Instead we have been motivated by our belief that good legal education must take into account the diversity of interests in our free and pluralistic society so that our graduates may render more effective professional service to that society. We have a long way yet to go before that task is completed.

We may also take satisfaction in the fact that we have not allowed our curriculum to be dominated by either practice or theory, but we cannot complacently assume that we have found the right accommodation between those competing demands. I believe that our efforts to teach legal theory still give too much emphasis to formal rules and abstract doctrine and do not go nearly far enough toward developing explanatory theory and basic ordering of ideas. We have developed innovative ways to teach practice skills through simulation exercises, but we still have a long way to go before we can be satisfied that we are giving our students the technical skills needed for effective lawyering, as well as the deep insights into how those skills should be used in the service of a just society.

I would like to speak also of one other intangible or less obvious accomplishment that has to do with faculty collegial relations.

**W**hen I began teaching at the University of Michigan Law School, I was immediately accepted as a full partner in the faculty. Colleagues adjusted their teaching assignments to make room for me to explore and develop my interests. I was given important committee assignments and an equal voice and equal vote in faculty meetings. Faculty rank was never invoked to impose some kind of junior status upon me.

A colleague who was teaching the Legal Education Seminar for graduate students invited me to share that responsibility with him, thereby introducing me to the basic issues and literature of legal education without implying some demeaning apprenticeship.

Another colleague put me in touch with a lawyer who was looking for a coauthor to revise his treatise on Michigan civil procedure. This led to a relationship that produced a seven-volume treatise and many valuable opportunities for professional development.

A former teacher invited me join with him and

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If you would  
find a life in  
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yourself in  
professional  
service to  
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in this  
profession  
is likely to  
be self-  
defeating in  
the long run.

several others in producing a new edition of their torts casebook. These established scholars accepted me as an instant colleague and nurtured a relationship that resulted in my becoming the managing editor on two later editions of our two casebooks.

I gradually realized that these were not extraordinary measures for the training of a new faculty member, but were part of an institutional tradition of mutual support among faculty colleagues. I began to appreciate that this support entailed reciprocal obligations.

The opportunity to find and develop my own teaching and scholarly interests implied reciprocal obligations to accommodate my colleagues' efforts to do the same, to support and encourage their research efforts, to share institutional resources unselfishly, and to make my professional contacts available in aid of their professional development.

The privilege to participate in faculty self-governance implied an obligation to accept my share of committee and administrative assignments.

The privilege of an equal voice in faculty affairs implied reciprocal obligations to prepare and exercise that privilege conscientiously, to listen to and respect the voice of colleagues, and to subordinate my self-interest occasionally to institutional goals as defined by the faculty.

If this description of faculty relations sounds idealistic, I can only reaffirm that I experienced it at one of the nation's great state universities.

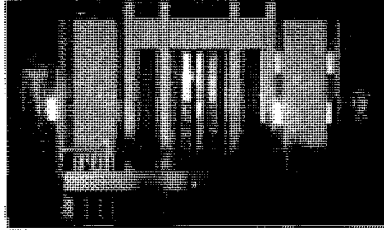
I came to BYU in 1973 hoping that I might help to establish this same collegial tradition in the new Law School, and I think we have largely succeeded. This spirit of mutual support among faculty colleagues should flourish at BYU. While I know that it can be sustained elsewhere as an academic tradition of enlightened self-interest, it should prevail here from even higher motivations, as an application of the Golden Rule or of the Savior's grand paradox that we must lose our lives in order to find them.

I believe I prize as highly as any here the philosophical and political values of individual autonomy. But I have learned from experience that in academic life individualism paradoxically flourishes better where some of its more strident claims are voluntarily subordinated out of concern for the group and for institutional objectives, just as group power and collective solidarity are strengthened when the group liberally relinquishes most of its demands for conformity and loyalty in order to help its members define and pursue their individual goals.

This is, I believe, a secular application of that grand paradox of life that Jesus taught,

"For whosoever will save his life shall lose it: and whosoever will lose his life for my sake shall find it" (Matthew 16:25)

I hope that this tradition of faculty collegiality will continue to sustain the J Reuben Clark Law School through succeeding generations of teachers and students



There is also a message in this for you graduates. If you would find a life in the law, you must lose yourself in professional service to others through the law. Aggressive or ambitious pursuit of self-interest in this profession is likely to be self-defeating in the long run. You may gain position or power or prestige, but you may also lose your self-respect, and you will surely fail to find your life fulfilled in your work. It is no small thing to reflect on your professional career and be able to say that you have labored in the service of something worthwhile and that you have found joy in your work.

When I was asked to consult with the planning committee, I advised them against starting a law school at BYU, because I thought that there were more pressing needs for the Church's education dollars. But when the decision was made to establish the Law School, my main concern was that it should become a good law school. That seemed to me a sufficient cause in which to labor, even though I lacked a clear vision of some special mission for this institution. Now, perhaps, the time has come to step aside and make room for those who have a clearer vision, or at least for those who have fresh ideas, and the energy and enthusiasm to pursue them.

This address was delivered at April convocation, 1991.



*Carl S Hawkins "A man whose judgment is always unerring, always the best"*

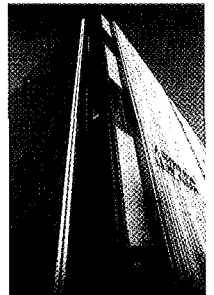
The retirement of Professor Carl Hawkins from the full-time faculty of the J Reuben Clark Law School marks an important transition in the life of one of the school's leading scholars and in the life of the school itself. Professor Hawkins will go on to conduct research, teach occasional courses, and engage in some of life's more sublime pursuits as a professor emeritus of law, and the Law School will attempt to adjust to the absence of one of its most respected and distinguished influences. A member of the initial faculty of the J. Reuben Clark Law School, Professor Hawkins served as both acting dean and dean of the Law School in subsequent years. Before coming to BYU, Professor Hawkins served on



the faculty of the University of Michigan Law School from 1957 to 1973. Leaving his position at that prestigious institution to join a fledgling law school was as much an act of faith as it was a once-in-a-lifetime opportunity. University President and founding Law School Dean Rex Lee has called the decision of

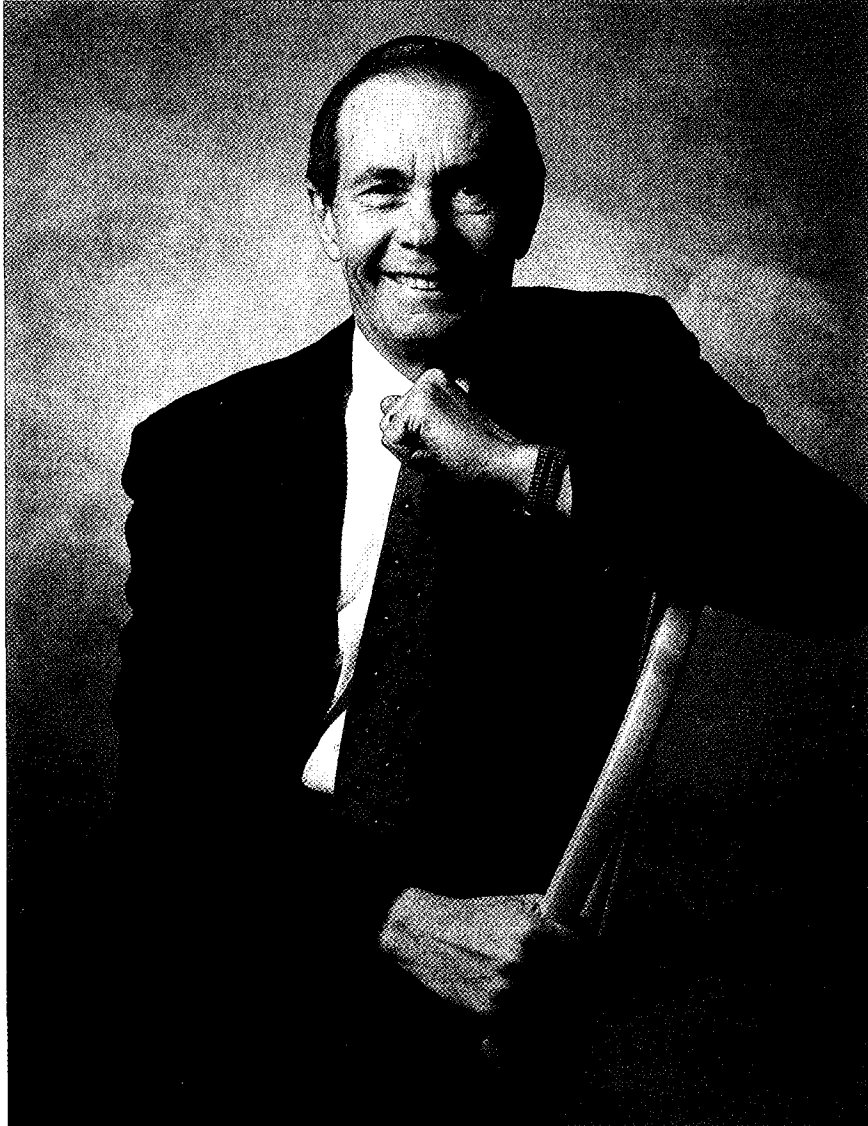
Professor Hawkins to join the Law School "the critical event" in the year after Lee was appointed dean. "It was clear from the beginning that the quality of our initial faculty was the single most important factor affecting the success of the Law School," according to President Lee. "With the right faculty, we would be able to attract good students and the acceptance of the profession. Without them, the school would

be a lost cause. But there were so few Mormon law teachers of national stature that I quickly saw one man as the key to what other faculty prospects would do. That man was Carl Hawkins." In the early days of the Law School, Dean Lee would often talk over tough issues with Professor Hawkins, "a man whose judgment is always unerring, always the best." Former Michigan Law School Dean Frank Allen once told University Provost Bruce Hafen "The day Carl left here for BYU, we all knew BYU would be a first-rate school." So important was the decision of Professor Hawkins to come to BYU that upon receiving confirmation of Hawkins' decision, former BYU president and current member of the Quorum of the Twelve Dallin H. Oaks told Lee and Hafen "I guess the Lord really wants this law school; I guess he really wants it to be a good one." Professor Hawkins' deanship marked a period of growth and maturity for the Law School. From 1980 to 1985, Dean Hawkins guided the school to accreditation by the Association of American Law Schools, increased the faculty to its full size, and saw the Law School accepted into the Order of the Coif. While Professor Hawkins doubts the individual importance of such events that occurred on his watch, he does emphasize their importance as evidence of the growth and improvement of the Law School. "I was dean when much of the growth and development here came to a natural fruition. Of course, credit for that has to be shared with Dean Rex Lee and the first faculty." At a dinner held in honor of the retirement of Professor Hawkins and Professor Douglas Parker, Provost Hafen made the following remarks: "For most of us, the institution [the J. Reuben Clark Law School] has made us better; for these two, they have made the institution better. Each gave his professional life to the Law School. Who will show us the way in the future as they did in the past when the going was much more difficult?" While the retirement of Professor Hawkins may leave the Law School without the full-time contribution of one of its most eminent voices, Professor Hawkins' efforts to establish and perpetuate a strong academic tradition within the J. Reuben Clark Law School will continue to be felt. His dedication to ideological independence, faculty collegiality, and academic performance has served the Law School well, and his commitment to superior law teaching and scholarship will continue as an example of excellence for future students and professors.



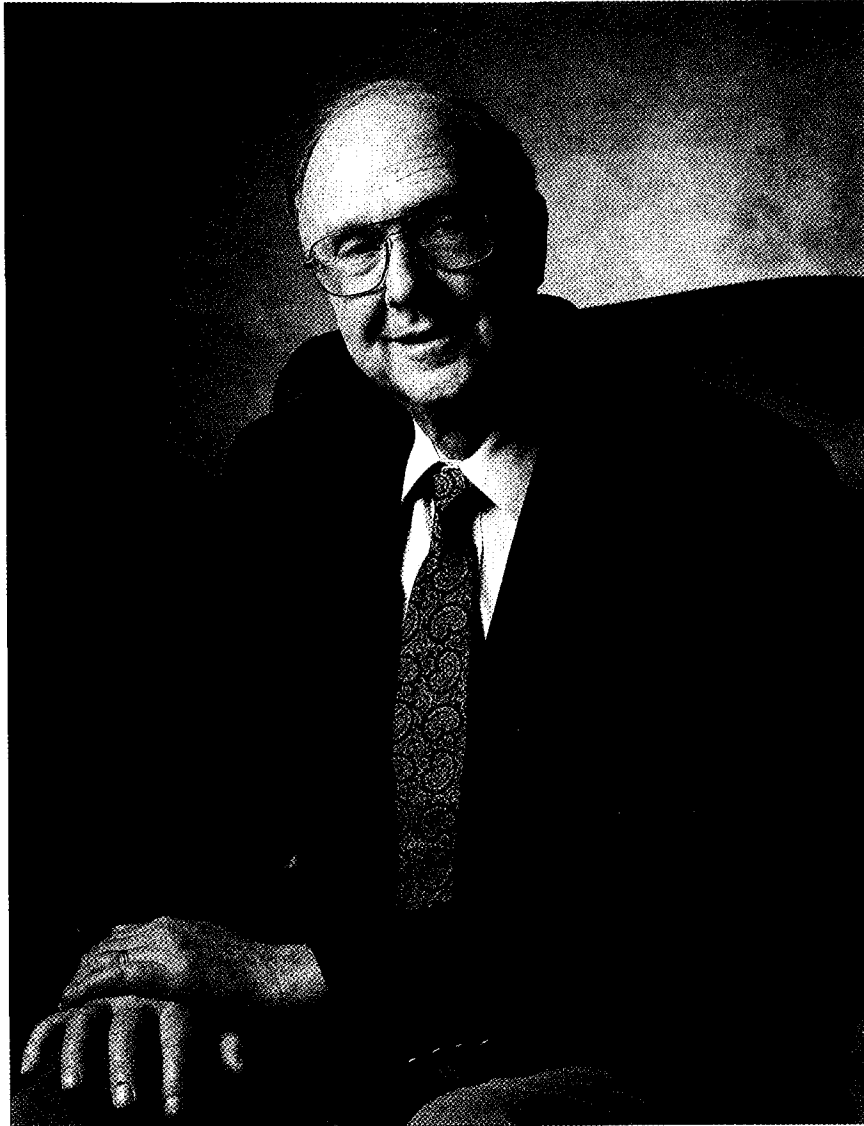
*The following portraits of the school's deans, taken in 1991,  
will be on permanent display at the J. Reuben Clark Law School Building.*

PHOTOGRAPHS BY JOHN SNYDER



**REX E. LEE**

*Dean, 1971–1981*

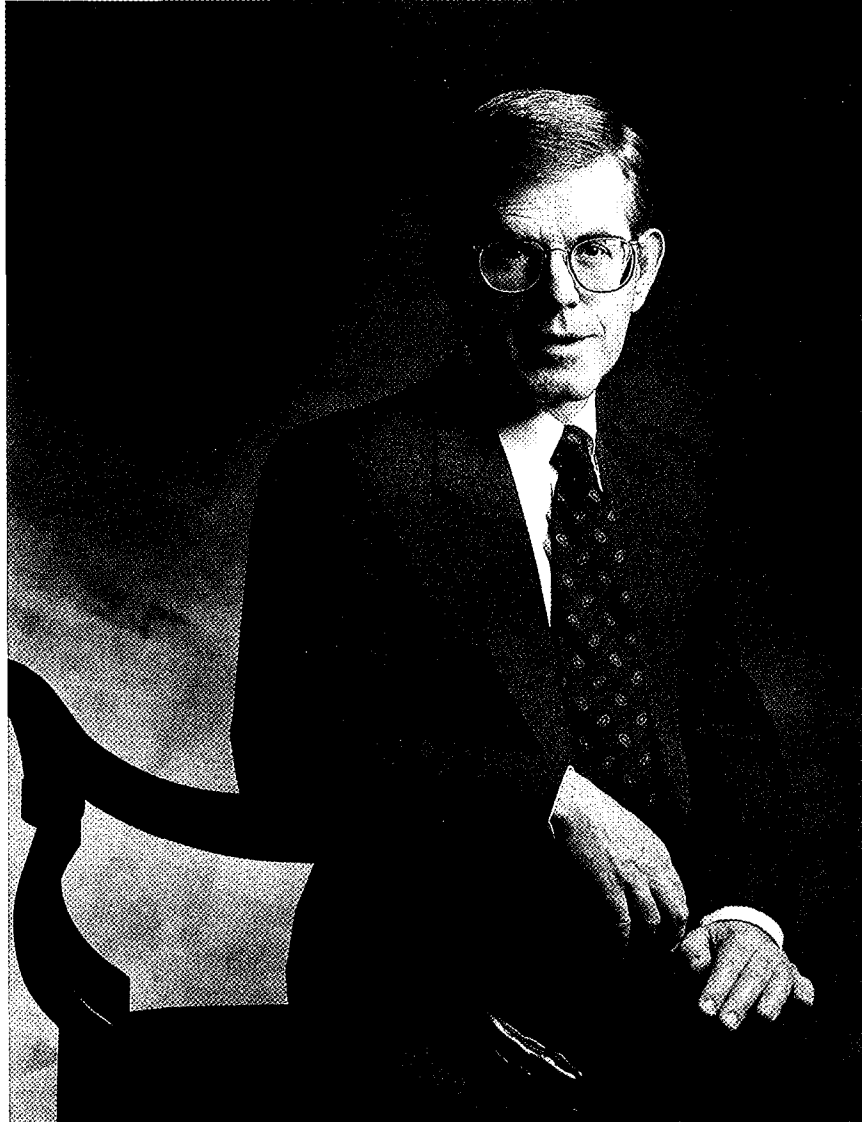


**CARL S. HAWKINS**

*Acting Dean, 1975–1977*

*Dean, 1981–1985*





**BRUCE HAFEN**

*Dean, 1985-1989*



**H. REESE HANSEN**

*Acting Dean, 1989–1990*

*Dean, 1990–present*